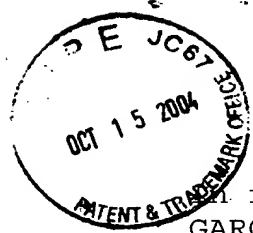


3634



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

re Application of:)	ATTY'S DKT:
GARCIA-MARTIN et al.)	GARCIA-MARTIN1
)	Group: 3634
Appln. No.: 09/581,946)	
)	Washington, D.C.
Filed: 08 November 2000)	
)	October 15, 2004
For: DOOR MODULE)	
)	Attn: PETITIONS

PETITION TO VACATE HOLDING OF ABANDONMENT

U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window, Mail Stop
Crystal Plaza Two, Lobby, Room 1B03
Arlington, Virginia 22202

duplicate copy
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Sir:

Applicant is in receipt of the Notice of Abandonment, mailed September 28, 2004, which **erroneously** states that the application is abandoned because of applicant's failure to file a response within the time period established by the Office Action mailed April 22, 2002.

It is respectfully requested that such Notice of Abandonment be vacated as being erroneous and that the present application be reinstated.

No fee is necessary for this petition. However, if a fee must be charged, please charge same to Deposit Account No. 02-4035, and then refund said fee as the holding of abandonment is erroneous and is entirely the fault of the PTO.

THE FACTS

Applicant received a non-final official action dated April 22, 2002.¹ Applicant timely and properly responded within the time period established by the Office Action dated April 22, 2002, by timely filing a Response on September 20, 2002, along with payment of a two-month extension of time fee.

As evidence that such Response was timely and properly filed on September 20, 2002, attached hereto is a xerographic copy of the return postcard date-stamped by the PTO Mail Room as having been timely received by the PTO on September 20, 2002.

As it appears that the Response filed on September 20, 2002, has been lost by and in the PTO (after having been received in the mailroom and having the fee charged to applicant's credit card account), attached hereto is a duplicate copy of the Response (entitled "Amendment") dated September 20, 2002. However, the two months' extension fee has already been charged to applicant's credit account on September 23, 2002. As proof of this fact, attached hereto is a copy of the statement of Credit Card Transactions for our credit card issued by the PTO Revenue Accounting and Management System (with non-relevant application numbers redacted and the relevant entry highlighted), showing that the \$400 has already been credited to the PTO. Accordingly, the attached executed copy of the Response of September 20, 2002,

¹ The reference in the Notice of Abandonment to the Official action of April 22, 2002, as being a final rejection is erroneous. The Official action of April 22, 2002, which contains a new rejection, is expressly designated in paragraph 2(b) as being non-final. Copies of the first two pages of this action are attached hereto with the relevant section highlighted.

is not to be taken as authorization to charge said extension of time fee. No further fees are required at this time.

On March 23, 2003, March 23, 2004, and September 30, 2004, requests for status were filed. No written response was ever received to any of these requests for status.

A Notice of Abandonment was mailed on September 28, 2004.

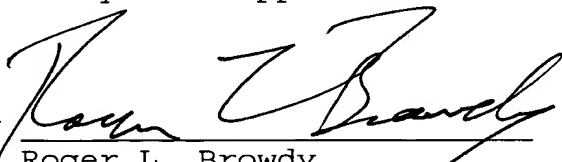
REMARKS

In view of the above evidence, it is clear that a reply was timely and properly filed within the time period established by the Office Action mailed on April 22, 2002, and that the Notice of Abandonment has been issued in error. Indeed, the postcard by itself should be sufficient, as MPEP Section 503 states:

A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt of the PTO of all items listed there on the date stamped thereon by the PTO.

It is accordingly requested that the Notice of Abandonment be vacated and the present application be reinstated.

BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicant

By 
Roger L. Browdy
Registration No. 25,618

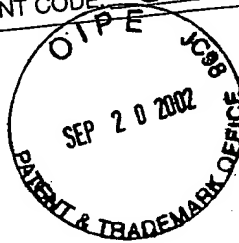
RLB:edg:jab
Telephone No.: (202) 628-5197
Facsimile No.: (202) 737-3528
G:\BN\O\Ocha\garcia martin1\pto\patent erroneous abandonment.doc

APPLICATION/PATENT NO: 09/581,946
DOCKET NO: Garcia-Martin=1

THE PATENT AND TRADEMARK OFFICE STAMP
HEREON ACKNOWLEDGES RECEIPT OF THE
FOLLOWING PAPERS:

- ☒ FEES \$ 2400.00 ☐ (CH. # _____)
☒ PTO FORM 2038 ☐ EXTENSION OF TIME (2 MONTHS)
☒ TRANSMITTAL LETTER
☐ MISSING PARTS RESPONSE WITH DECL
☒ AMENDMENT RESPONSE (circle one)
☐ PRELIMINARY ☐ SUPPLEMENTAL
☐ APPLICATION DATA SHEET
☐ RESTRICTION/ELECTION REPLY
☐ SEQUENCE LISTING ☐ WITH DISK
☐ RCE / CPA TRANSMITTAL (circle one)
☐ NOTICE OF APPEAL
☐ APPEAL BRIEF (TRIPLICATE)
☐ REPLY BRIEF (TRIPLICATE)
☐ OTHER _____

CONF. NO.: 6651
CLIENT CODE: OCHA



- ☐ ASSIGNMENT
☐ INFORMATION DISCLOSURE STATEMENT
☐ FORM SB08A & _____ PATENTS/PUBS
☐ PRIORITY DOCUMENT(S) NO. _____
☐ DECLARATION UNDER \$ _____
☐ LETTER TO DRAFTSMAN
☐ _____ SHEETS OF DRAWINGS
☐ ISSUE FEE TRANSMITTAL FORM
☐ MAINTENANCE FEE LETTER

B&N-1



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U.S. PATENT AND TRADEMARK OFFICE REVENUE ACCOUNTING AND MANAGEMENT SYSTEM

CREDIT CARD TRANSACTIONS

Card Number:
...1004

Start Accounting Date:
09/01/2002

End Accounting Date:
09/30/2002

Date/Time of Report: Fri Dec
27 11:42:39 2002

Credit Card Sales

Accounting Date	Create Date	Amount	Fee Code	Name/Number	Attorney Docket Number
-----------------	-------------	--------	----------	-------------	------------------------

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09/03/2002	09/03/2002 02:55:48				
09/03/2002	09/03/2002 02:56:58				
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YANG 4324
BRANDOLINI 24
09581946
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UNITED STATES PATENT AND TRADEMARK OFFICE

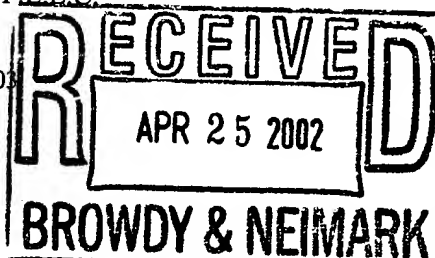
UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

JMF

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/581,946	11/08/2000	Jose Francisco Garcia Martin	GARCIA-MARTI	6651

1444 7590 04/22/2002

BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON, DC 20001-5303




EXAMINER	
COHEN, CURTIS A	
ART UNIT	PAPER NUMBER
3634	

DATE MAILED: 04/22/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

*Amend-22112002
DKT 4-26-02*

Office Action Summary

Application No. 01,946	Applicant(s) Garcia-Martin et al	
Examiner Curtis Cohen	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS: 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136. In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply must be filed within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period for reply will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Feb 1, 2002
- 2a) ☐ This action is FINAL. 2b) ☒ This action is not final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under 37 CFR 1.102, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21, 22, 24-31, and 33-36 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 24-29 is/are allowed.
- 6) ☒ Claim(s) 21, 22, 30, 31, and 33-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☒ All b) ☐ Some* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of priority documents not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
- 18) ☐ Preliminary Amendment (PTO-413) Paper No(s). _____
- 19) ☐ Informal Patent Application (PTO-152)

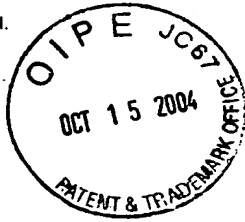
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of: GARCIA-MARTIN et al.

Application No.: 09/581,946

Filed: November 8, 2000

For: DOOR MODULE



Art Unit: 3634

Examiner: Curtis A. Cohen

Washington, D.C.

Atty.'s Docket: GARCIA-MARTIN # 1

Date: September 20, 2002

Confirmation No. 6651

THE COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Sir:

Transmitted herewith is a [X] Amendment []
in the above-identified application.

- [] Small entity status of this application under 37 CFR 1.9 and 1.27 has been established by a verified statement previously submitted
- [] A verified statement to establish small entity status under 37 CFR 1.9 and 1.27 is enclosed.
- [] No additional fee is required.
- [X] The fee has been calculated as shown below:

(Col. 1)		(Col. 2)		(Col. 3)	SMALL ENTITY		OR	OTHER THAN SMALL ENTITY	
	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NO. PREVIOUSLY PAID FOR	PRESENT EXTRA EQUALS	RATE	ADDITIONAL FEE		RATE	ADDITIONAL FEE
TOTAL	*	MINUS	** 20		x 9	\$		x 18	\$
INDEP.	*	MINUS	*** 3	0	x 42	\$		x 84	\$
FIRST PRESENTATION OF MULTIPLE DEP. CLAIM					+ 140	\$		+ 280	\$
					ADDITIONAL FEE TOTAL	\$		TOTAL	\$

- * If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.
- ** If the "Highest Number Previously Paid for" IN THIS SPACE is less than 20, write "20" in this space.
- *** If the "Highest Number Previously Paid for" IN THIS SPACE is less than 3, write "3" in this space.

The "Highest Number Previously Paid For" (total or independent) is the highest number found from the equivalent box in Col. 1 of a prior amendment of the number of claims originally filed.

[XX] Conditional Petition for Extension of Time

If any extension of time for a response is required, applicant requests that this be considered a petition therefor.

[X] It is hereby petitioned for an extension of time in accordance with 37 CFR 1.136(a). The appropriate fee required by 37 CFR 1.17 is calculated as shown below:

Small Entity

Response Filed Within

- [] First - \$ 55.00
- [] Second - \$ 200.00
- [] Third - \$ 460.00
- [] Fourth - \$ 720.00

Month After Time Period Set

Other Than Small Entity

Response Filed Within

- [] First - \$ 110.00
- [X] Second - \$ 400.00
- [] Third - \$ 920.00
- [] Fourth - \$ 1440.00

Month After Time Period Set

[] Less fees (\$) already paid for ___ month(s) extension of time on _____.

[] Please charge my Deposit Account No. 02-4035 in the amount of \$ _____.

[X] Credit Card Payment Form, PTO-2038, is attached, authorizing payment in the amount of \$400.00

[] A check in the amount of \$ _____ is attached (check no.).

[XX] The Commissioner is hereby authorized and requested to charge any additional fees which may be required in connection with this application or credit any overpayment to Deposit Account No. 02-4035. This authorization and request is not limited to payment of all fees associated with this communication, including any Extension of Time fee, not covered by check or specific authorization, but is also intended to include all fees for the presentation of extra claims under 37 CFR §1.16 and all patent processing fees under 37 CFR §1.17 throughout the prosecution of the case. This blanket authorization does not include patent issue fees under 37 CFR §1.18.

BROWDY AND NEIMARK

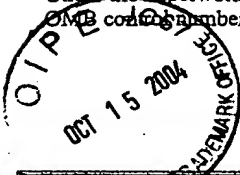
Attorneys for Applicant(s)

Facsimile: (202) 737-3528
Telephone: (202) 628-5197

By:
Jay M. Enkelstein
Registration No. 21,082

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OCT 26 2004
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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.



United States Patent & Trademark Office

Credit Card Payment Form

Please Read Instructions before Completing this Form

Credit Card Information

Credit Card Type: Visa MasterCard **American Express** Discover

Credit Card Account #: 3727-126626-01004

Credit Card Expiration Date: 08/03

Name as it Appears on Credit Card: Roger L. Browdy

Payment Amount: \$(US Dollars): \$ 400.00

Signature: *Roger L. Browdy* Date: September 16, 2002

Refund Policy: The Office may refund a fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee will not entitle a party to a refund of such fee. The Office will not refund amounts of twenty-five dollars or less unless a refund is specifically requested, and will not notify the payor of such amounts (37 CFR 1.26). Refund of a fee paid by credit card will be via credit to the credit card account.

Service Charge: There is a 50.00 service charge for processing each payment refused (including a check returned "unpaid") or charged back by a financial institution (37 CFR 1.21(m)).

Credit Card Billing Address

Street Address 1: 624 Ninth Street, NW

Street Address 2:

City: Washington

State: DC

Zip/Postal Code: 20001

Country: USA

Daytime Phone #: 202-628-5197

Fax #: 202-737-3528

Request and Payment Information

Description of Request and Payment Information:

Government fee for two month extension of time

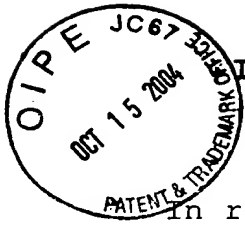
Patent Fee	Patent Maintenance Fee	Trademark Fee	Other Fee
Application No. 09/581,946	Application No.	Serial No.	IDON Customer No.
Patent No.	Patent No.	Registration No.	
Attorney Docket No. Garcia Martin-1		Identify or Describe Mark	

If the cardholder includes a credit card number on any form or document other than the Credit Card Payment Form, the United States Patent & Trademark Office will not be liable in the event that the credit card number becomes public knowledge.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ATTY.'S DOCKET: GARCIA-MARTIN=1

In re Application of:

GARCIA-MARTIN et al.

Appln. No.: 09/581,946

Filing Date: November 8, 2000

For: DOOR MODULE

) Art Unit: 3634
)
) Examiner: Curtis A. Cohen
)
) Washington, D.C.
)
) September 20, 2002
)
) Confirmation No. 6651
)
)

AMENDMENT

Honorable Commissioner of Patents
Washington, D.C. 20231

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OCT 26 2004
GROUP 3600

Sir:

In response to the Examiner's action dated April 22, 2002, kindly amend the above-identified application as follows:

IN THE CLAIMS

Please cancel claims 21, 22 and 33-36 and amend claims 30 and 31 as follows:

30. (Twice Amended) A door module for assembly to a door inner liner of a door of an automotive vehicle, said door module comprising:

a door trim panel that will face the interior of the vehicle; and

a door lock subassembly carried by said door trim panel prior to assembly of said door module to the door inner liner, wherein

said door lock subassembly is mounted in said door trim panel for displacement relative to said door trim panel from a transport position to an assembly position for attachment to the door inner liner, at least a portion of said door lock subassembly projecting beyond said door trim panel when said door lock subassembly is in the assembly position.

31. (Twice Amended) A door module for assembly to a door inner liner of a door of an automotive vehicle, said door module comprising:

a door trim panel that will face the interior of the vehicle; and

at least one subassembly carried by said door trim panel prior to assembly of said door module to the door inner liner, wherein

said door trim panel includes a main part and a hinged part, said main part having an opening to permit access for securing said at least one subassembly to the door inner liner and said hinged part being pivotably connected to said main part for pivotable movement into a position covering the opening.

Please add the following new claim:

--37. The door module of claim 1 further comprising means coupled to said door lock subassembly for moving said door lock subassembly to the assembly position.--

REMARKS

The Examiner's action dated April 22, 2002, has been received, and its contents carefully noted.

The allowance of claim 24-27 is noted with appreciation.

In order to advance examination, claims 21, 22, and 33-36 have been cancelled and claims 30 and 31 have been amended to more clearly define the contribution of the invention over the prior art. A new dependent claim 37 has been added to present a limitation that was deleted from claim 30.

In response to the rejection of claim 30 under 35 USC 112, the recitation of "means for displacing" has been deleted from claim 30. However, added claim 37 now provides a positive recitation of means for moving the door lock assembly. For reasons to be presented below, it is submitted that claim 30, as amended, clearly distinguishes patentably over the prior art and that the recitation now included in added claim 37 is supported by the specification, as originally filed.

Claim 30 is directed to a door module for assembly to an inner liner of a door, this module having a door lock subassembly carried by a door trim panel. According to a salient feature of the present invention, the door lock subassembly is mounted in the trim panel for displacement relative to the trim panel from a transport position to an assembly position for attachment to the door inner liner. This feature allows the door lock subassembly to be mounted on the door trim panel prior to installation of the door module onto an inner door liner. Specification, page 2, lines 26-32. Since the door lock subassembly can be placed in a transport position, it does not interfere with placement of the door module in position on the door inner liner.

Claim 30 now recites that the door lock subassembly is mounted on the door trim panel for displacement relative to

the door trim panel from a transport position to an assembly position. This is illustrated in figures 3 and 4 of the application drawing, which are described in the specification between page 10, line 31 and page 11, line 4. According to that description, the door lock 12 is carried by a base 2 that is fastened to the trim panel. The initial position of door lock 12 is shown in figure 4, while its extracted, or assembly, position is shown in figure 3.

Claim 30 stands rejected as anticipated by Emerling. The explanation of the rejection states that this reference teaches an inner door panel having a door lock subassembly that is mounted to be movable relative to the door trim panel. The explanation of the rejection does not identify any figure number or list any reference numerals, other than to mention a metal reinforcing plate 16. Since claims 21, 22 and 33-36 have now been cancelled and claim 30 does not mention a metal reinforcing plate, it is assumed that reference to that element is not relevant the rejection of claim 30.

Since the reference numeral 16 appears in figure 2 of the reference drawing, it will be assumed that the structure illustrated in that figure is being relied upon to support the rejection of claim 30. In the reference, the numeral 16 identifies a lock and catch assembly and it must be assumed that it is this assembly that the Examiner considers to correspond to the door lock subassembly defined in claim 30. Based on this assumption, it is clear that the applied reference does not provide a disclosure that is at all relevant to the subject matter defined in claim 30. Figures 1, 2, 18 and 19 of the reference are the only figures containing the reference numeral 16, although it appears that the housing for the lock and catch assembly is also shown in figures 4, 6 (element 202) and 7. What is clear from all of the illustrations, as well

as from the disclosure provided in this reference, is that the catch and lock assembly 16 is installed in a fixed position on door panel 12. Therefore, when this panel is mounted to the door outer panel, special provision must be made for installing the latch housing. Reference is made, in this connection, to the disclosure at column 6, lines 18-42 of the reference.

Thus, contrary to the assertion presented in the explanation of the rejection of claim 30, the applied reference does not disclose a door lock subassembly that is mounted in a door trim panel for displacement relative to the door trim panel from a transport position to an assembly position. It is therefore submitted that the rejection of claim 1 under 35 USC 102(b) is not supported by the applied reference and it is therefore asked that this rejection be reconsidered and withdrawn.

The rejection of claim 31 is traversed on the grounds that the door module defined in claim 31 is not disclosed in or suggested by the applied reference. Claim 31 is directed to a door module that includes a trim panel having a main part and a hinged part. The main part has an opening to permit access for securing at least one subassembly to the door inner liner and the hinged part is pivotably connected to the main part for pivotable movement into a position covering the opening.

Figure 1 of the applied reference illustrates a door having a trim panel provided with an opening for accommodating an element 111, which identified at column 9, line 67 of the reference as a bezel. There is nothing in the disclosure of this reference to suggest forming element 111 as hinged part that is pivotably connected to the main part of the trim panel. It has long been recognized that since all limitations

of a claim must be considered in determining the claimed subject matter, and it is error to ignore specific limitations distinguishing over the reference, it is necessary that the modification of a prior art device to meet the claim be obvious from teachings in secondary references when taken in conjunction with the level of skill of those having ordinary skill in the art. *Ex parte Murphy et al*, 217 USPQ 479, 481 (Bd. of App., 1982). Clearly, in the present case, the rejection is not based on any secondary reference disclosing a hinged connection or providing evidence that it would be obvious to provide such a connection.

Accordingly, it is submitted that the present rejections of claim 31 cannot properly be maintained and it is requested that this rejection be considered and withdrawn.

Finally, submitted herewith for the Examiner's consideration is a new claim 37, which depends from claim 30 and adds a recitation of means for moving the door lock subassembly to the assembly position. In response to the Examiner's query as to the support in the present specification for this recitation, attention is drawn to the disclosure at page 10, line 31 to page 11, line 4 of the specification, as filed. It is there disclosed, with reference to figures 3 and 4 of the application drawing, that lock 12 is connected by a cable 11 to the interior opening handle, the cable being operable to enable lock 12 to be extracted, as shown in figure 3, for its final fixing to the door inner liner. It is submitted that, based on this disclosure, it is clear that cable 11 constitutes the "means" recited in claim 37.

In view of the foregoing, it is requested that the rejections of record be reconsidered and withdrawn, that

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claims 30, 31 and 37 be allow, along with allowed claims 24-29, and that the application be found in allowable condition.

If the above amendment should not now place the application in condition for allowance, the Examiner is invited to call undersigned counsel to resolve any remaining issues.

Attached hereto is a marked-up version of the changes made to the claims by the current amendment. The attached page is captioned "**Version with markings showing changes made.**"

Respectfully submitted,

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Version with markings showing changes made

30. (Twice Amended) A door module for assembly to a door inner liner of a door of an automotive vehicle, said door module comprising:

a door trim panel that will face the interior of the vehicle; and

a door lock subassembly carried by said door trim panel prior to assembly of said door module to the door inner liner, wherein

~~said door module further comprises means connected to said door lock subassembly~~ is mounted in said door trim panel for displacing said door lock subassembly displacement enrelative to said door trim panel from a transport position to an assembly position for attachment to the door inner liner, at least a portion of said door lock subassembly projecting beyond said door trim panel when said door lock subassembly is in the assembly position.

31. (Twice Amended) A door module for assembly to a door inner liner of a door of an automotive vehicle, said door module comprising:

a door trim panel that will face the interior of the vehicle; and

at least one subassembly carried by said door trim panel prior to assembly of said door module to the door inner liner, wherein

said door trim panel includes a main part and a hinged part, said main part having an opening to permit access for securing said at least one subassembly to the door inner liner and said hinged part being ~~pivotable~~ relative pivotably connected to said main part for pivotable movement into a position covering the opening.

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